Supreme Court, U. S.
FILED
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APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1461

THELMA B. STANTON,

Appellant,

v.

JAMES LAWRENCE STANTON, JR.,

Appellee,

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF UTAH

APPEAL FILED MARCH 5, 1974
PROBABLE JURISDICTION NOTED OCTOBER 21, 1974

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No. 73-1461

THELMA B. STANTON,

Appellant,

v.

JAMES LAWRENCE STANTON, JR.,

Appellee,

ON APPEAL FROM THE SUPREME COURT OF THE
STATE OF UTAH

APPEAL FILED MARCH 5, 1974
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RELEVANT DOCKET ENTRIES IN THE PROCEEDINGS BELOW

April 14, 1960 — Complaint of Thelma B. Stanton filed in District Court of Salt Lake County, Utah.

November 29, 1960 — Answer of James Lawrence Stanton, Jr., filed.

November 29, 1960 — Stipulation with respect to attorney's fees, property settlement, alimony, and support money filed.

November 29, 1960 — Findings of Fact, Conclusions of Law, and Decree of Divorce filed.

May 22, 1973 — Notice of Motion for judgment for past due support money, with supporting affidavit of plaintiff, filed.

May 29, 1973 — Defendant's Petition for Modification of Decree of Divorce, with supporting affidavit of defendant, filed.

May 29, 1973 — Defendant's Interrogatories to Plaintiff filed.

June 7, 1973 — Findings of Fact, Conclusions of Law, and Order denying plaintiff's motion for judgment for past due support money filed.

June 13, 1973 — Notice of Motion to Amend Findings of Fact, Conclusions of Law and Order filed.

June 13, 1973 — Amended Findings of Fact, Conclusions of Law, and Order denying judgment for past due support money filed.

June 18, 1973 — Plaintiff's Answers to Interrogatories filed.

June 22, 1973 — Notice of Appeal to Supreme Court of the State of Utah filed.

January 4, 1974 — Decision of Supreme Court of State of Utah filed.

January 30, 1974 — Plaintiff's Petition for Rehearing denied.

January 30, 1974 — Remittitur issued by Supreme Court of the State of Utah.

February 4, 1974 — Remittitur filed in District Court of Salt Lake County, Utah.

March 5, 1974 — Notice of Appeal to the Supreme Court of the United States filed.

DISTRICT COURT OF SALT LAKE COUNTY, STATE OF UTAH

THELMA B. STANTON,
Plaintiff,
vs.
JAMES LAWRENCE STANTON, JR.,
Defendant.

Findings of Fact and Conclusions of Law
No. 125233

This matter came on regularly for hearing the 29th day of November, 1960, before the Honorable A. H. Ellett, the plaintiff appearing personally and by counsel, Sumner J. Hatch, and the defendant appearing by counsel, Wayne Ashworth; the defendant's answer

having been withdrawn and his default entered, testimony having been adduced for and on behalf of the plaintiff, the stipulation as to property, child support and alimony having been entered and made a part of the record, the court being fully advised in the matter now makes the following

FINDINGS OF FACT

1. For more than three months immediately preceding commencement of this action, plaintiff and defendant have been and now are actual and bona fide residents of Salt Lake County, State of Utah.

2. The parties were married at Elko, Nevada, on the 22nd day of February, 1951.

3. There are two children the issue of the marriage, to wit, Sherri Lyn, aged seven years, and Rick Arlund, aged five years, who are now in the care and custody of their mother who is a fit and proper person to be awarded such care and custody, with full rights of visitation in the defendant, their father.

4. Defendant has treated the plaintiff cruelly causing her great mental distress and physical discomfort, more particularly as follows: During the last three months the parties lived together, the defendant continually bickered and argued with the plaintiff and failed to come home nights, admitted going out with other women, stated that plaintiff should get a divorce and that he no longer loved her.

5. The parties should be granted property settlement as set forth in the stipulation.

6. The plaintiff should be granted the sum of $300.00 per month as child support and alimony, $100.00 per month for each child as child support and $100.00 per month as alimony.

7. The defendant should be required to keep in force life insurance now possessed by him with the two children as joint beneficiaries and, further, to keep in force such medical and hospitalization insurance on the children as he now has.

8. Defendant should pay for and on behalf of plaintiff the sum of $100.00 as attorney's fees, in addition to such fees as have been paid.

The court having made the above Findings of Fact, now concludes as

CONCLUSIONS OF LAW

1. The plaintiff is entitled to a divorce.

2. Plaintiff should be awarded care and custody of the two children, Sherri Lyn and Rick Arlund, with full rights of visitation in the defendant.

3. The parties should be awarded property as set forth in the stipulation, and defendant required to pay the bills and obligations accumulated prior to their separation with the exception of the payments on the Austin Healy Sprite automobile, which payments plaintiff should provide.

4. Plaintiff is entitled to the sum of $300.00 per month child support and alimony, $100.00 per month for each child as child support and $100.00 per month as alimony, to be paid on or before the 1st day of each

month through the office of the Salt Lake County Clerk.

Dated this 29th day of November, 1960.

By the court:

/s/ A. H. Ellett,

Judge

DISTRICT COURT OF SALT LAKE COUNTY, STATE OF UTAH

THELMA B. STANTON,
Plaintiff,
vs.
JAMES LAWRENCE STANTON, JR.,
Defendant.

Decree Of Divorce
No. 125233

This matter came on regularly for hearing on the 29th day of November, 1960, before the Honorable A. H. Ellett, the plaintiff appearing personally and by counsel, Sumner J. Hatch, and the defendant appearing by counsel, Wayne Ashworth; the defendant's answer having been withdrawn and his default entered, testimony having been adduced for and on behalf of the plaintiff, the stipulation as to property, child support and alimony having been entered and made a part of the record, the court being fully advised in the matter and having heretofore made and entered its Findings of Fact and Conclusions of Law;

NOW, THEREFORE, on motion of Sumner J. Hatch, attorney for plaintiff, it is ORDERED, ADJUDGED and DECREED:

1. The contract of marriage existing between plaintiff and defendant be, and the same is hereby, dissolved and held for naught, and the said parties divorced from one another; provided that this decree and the said divorce shall not become final until the same shall become absolute and final without further order or further decree therefor, unless prior to said time the court on its own motion or upon the motion of any other person, whether interested or not, otherwise orders.

2. Plaintiff is awarded care and custody of the two minor children, to wit, Sheri Lyn, aged seven years, and Rick Arlund, aged five years, subject to reasonable rights of visitation in the defendant.

3. The parties are awarded property as set forth in the stipulation.

4. Defendant is ordered to pay the bills and obligations accumulated prior to their separation with the exception of the payments on the Austin Healy Sprite automobile, which is to be assumed by plaintiff.

5. Defendant is ordered to pay to plaintiff the sum of $300.00 per month as child support and alimony, $100.00 per month for each child as child support and $100.00 per month as alimony, to be paid on or before the 1st day of each month through the office of the Salt Lake County Clerk.

Dated this 29th day of November, 1960.

By the court:

/s/ A. H. Ellett,

Judge

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title Omitted In Printing]

NOTICE OF MOTION

TO: D. Gary Christian, Esq.
Kipp and Christian
Boston Building
Salt Lake City, Utah 84111
Attorney for Defendant

Please take notice that on Thursday, May 31, 1973, at the hour of 11:00 o'clock a.m., before Honorable James S. Sawaya, plaintiff in the above entitled action will move the court as follows:

1. For entry of judgment in favor of the plaintiff and against the defendant in the amount of Three Thousand Dollars ($3,000.00) interest, costs and a reasonable attorney's fee to be fixed by the court.

2. For entry of an order that the defendant shall indemnify the plaintiff against and hold her harmless from any liability on account of medical, surgical, hospital, and pharmaceutical bills, arising out of the accidental injury suffered by the parties' daughter, Sherri Lyn, on or about February 25, 1973.

In support of the motion the plaintiff shows the court that on or about November 29, 1960, this court entered a decree herein, one of the provisions of which was that the defendant was to pay to the plaintiff the sum of $100.00 per month for each of the parties' two children as child support; that the parties' daughter, Sherri Lyn, became 18 years of age on February 12,

1971, and that the defendant thereupon ceased making payments to the plaintiff for the support of Sherri Lyn and made no payments to plaintiff in her behalf thereafter; that the defendant has made no support payments for the parties' son, Rick Arland, since February, 1973; that on or about February 25, 1973, the parties' daughter Sherri Lyn, suffered a serious fracture of the ankle and has required extensive surgical, medical and hospital care since that time; that to date the surgical, medical, hospital, and pharmaceutical bills incurred because of the injury to Sherri Lyn have approximated Two Thousand Seven Hundred Dollars ($2,700.00), and it is possible that additional expenses will be incurred before the fracture is healed; that the said expenses were not anticipated at the time of the decree herein; that plaintiff is unemployed and is without funds with which to pay the surgical, medical, hospital, and pharmaceutical expenses; and that the plaintiff has been required to hire an attorney, and has agreed to pay him a reasonable fee in connection with this motion; all of which more fully appears in the affidavit of the plaintiff, annexed hereto.

Dated this 22nd day of May, 1973.

/s/ Bryce E. Roe
ROE AND FOWLER
340 East Fourth South
Salt Lake City, Utah 84111

Attorney for Plaintiff

[Receipt for service omitted in printing]

DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

[Title omitted in printing]

PLAINTIFF'S AFFIDAVIT

STATE OF UTAH }
COUNTY OF SALT LAKE } ss.

Thelma B. Wasescha, being first duly sworn, deposes and says:

1. I was formerly known as Thelma B. Stanton, and am the plaintiff in the above entitled action.

2. On or about November 29, 1960, this court entered a decree of divorce in said action which contained, among other things, the following:

> Defendant is ordered to pay to plaintiff the sum of $300.00 per month as child support and alimony, $100.00 per month for each child as child support and $100.00 per month as alimony, to be paid on or before the 1st day of each month through the office of the Salt Lake County Clerk.

3. Plaintiff and defendant have two children, Sherri Lyn, born on February 12, 1953, and Rick Arland, born on January 29, 1955.

4. Defendant paid plaintiff $100.00 per month as support for their daughter, Sherri Lyn, through February, 1971, but has made no payments to plaintiff as support for Sherri Lyn since that date.

5. Defendant paid plaintiff $100.00 per month as support for their son, Rick Arland, through Feb-

ruary, 1973, but has made no payments to plaintiff as support for Rick Arland since that date.

6. On or about February 25, 1973, the parties' daughter, Sherri Lyn, severely fractured her ankle and required surgical, medical, and hospital care for an extended period of time. As a result of the accident the plaintiff has incurred medical, surgical, hospital, and pharmaceutical expenses in the amount of approximately Two Thousand Seven Hundred Dollars ($2,700.00), and it is possible that additional medical, hospital, and pharmaceutical expenses will be incurred before the fracture has healed.

7. Plaintiff is unemployed and is unable to obtain employment at the present time, and is without funds to pay the medical, surgical, hospital, and pharmaceutical expenses of aforesaid.

8. It has been necessary for plaintiff to hire an attorney to represent her in these proceedings, for which she has agreed to pay him a reasonable fee.

/s/ Thelma B. Wasescha

[Jurat omitted in printing]

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title omitted in printing]

PETITION FOR MODIFICATION OF DECREE OF DIVORCE

STATE OF UTAH }
County of Salt Lake } ss.

Defendant James Lawrence Stanton, Jr., respectfully alleges and petitions the Court as follows:

1. He as petitioner herein and the plaintiff, Thelma B. Stanton, were husband and wife but were divorced on the 29th day of November, 1960, and that there were two children as issue of said marriage, namely, Sherri Lyn Stanton and Rick Arlund Stanton.

2. Pursuant to the terms of the Decree of Divorce, plaintiff was awarded the care, custody and control of the two minor children of the parties and that defendant was ordered to pay plaintiff the sum of $200.00 per month for child support, said sum being divided equally for the support of each of the two children of the parties.

3. That on February 12, 1971, Sherri Lyn Stanton attained her majority, therefore defendant is no longer obligated to pay child support for said Sherri Lyn Stanton.

4. That since the time of defandant's divorce with plaintiff herein, petitioner has remarried and at the present time resides in Salt Lake County, State of Utah with his present wife.

5. That in February of 1973 the minor child Rick Arlund Stanton requested that he be allowed to reside with petitioner herein and has ever since that time resided with petitioner and his present wife and has done so with the permission of plaintiff herein and that the said Rick Arlund Stanton is voluntarily residing with petitioner herein.

6. That the said Rick Arlund Stanton even though a minor is gainfully employed at the present time and earns sufficient money to care for himself but any and all other needs including room and board are supplied for the said Rick Arlund Stanton by petitioner herein.

7. That since the said Rick Arlund Stanton is residing with petitioner herein that petitioner should not be required to pay child support in the sum of $100.00 for said Rick Arlund Stanton.

WHEREFORE, petitioner prays for an order of the above-entitled Court awarding petitioner the permanent care, custody and control of Rick Arlund Stanton, subject to the right of reasonable visitation privileges of the plaintiff, and for a further order of the Court eliminating defendant's child support obligation to plaintiff.

Dated this 25th day of May, 1973.

/s/ James Lawrence Stanton, Jr.

[Jurat omitted in printing]

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title omitted in printing]

AFFIDAVIT OF DEFENDANT

STATE OF UTAH }
County of Salt Lake } ss.

James Lawrence Stanton, Jr., being first duly sworn upon his oath, deposes and says:

1. That he is the defendant in the above-entitled action.

2. That Sherri Lyn Stanton, the daughter of the parties herein, turned 18 years of age on February 12, 1971, and up to that time defendant was current in his child support obligation as ordered by the Court in the Decree of Divorce entered in this matter.

3. That since the said Sherri Lyn Stanton has turned 18 years of age she resided for approximately six months with the defendant and that he paid for her support and care during that time. That since the said Sherri Lyn Stanton has turned 18 years of age she has resided with the plaintiff only for approximately six months and resided at other places and has been employed with the Paris Company and had other employment.

4. That since turning 18 years of age the said Sherri Lyn Stanton has resided outside the State of Utah for periods of time and been employed outside the State of Utah to the best of affiant's knowledge.

5. That in approximately February of this year

the said Sherri Lyn Stanton broke her ankle and that defendant has given the said Sherri Lyn Stanton the sum of $100.00, has paid the LDS hospital $50.00 and has received other hospital and medical bills for the care of injuries sustained by the said Sherri Lyn Stanton and that affiant is attempting to have his insurance company pay said hospital and medical bills and if is unsuccessful in that it is affiant's intention to pay said bills. Copies of the bills which affiant has at this point are attached hereto and made a part hereof by reference.

6. That at the time the said Sherri Lyn Stanton turned 18 years of age, she attained her majority and has been and was emancipated and is emancipated at the present time and affiant feels that he is not responsible under the laws of the State of Utah or under the Decree of Divorce to support said child further.

7. That the parties other child, Rick Arlund Stanton, presently resides with defendant and has resided with defendant since February of 1973, and that affiant has paid for the support of said minor child since that time. That during the course of time that the said Rick Arlund Stanton resided with plaintiff, affiant was current in his child support obligation to plaintiff for said child under the Decree of Divorce entered.

8. That the said Rick Arlund Stanton voluntarily left the residence of plaintiff and was permitted to reside with defendant.

9. That the said Rick Arlund Stanton even though a minor is gainfully employed at the present

time and earns sufficient money to care for himself but any and all other needs including room and board are supplied for the said Rick Arlund Stanton by affiant herein.

10. It has been necessary for defendant to hire an attorney to represent him in these proceedings for which he has agreed to pay his attorney a reasonable attorney fee.

Dated this 25th day of May, 1973.

/s/ James Lawrence Stanton, Jr.

[Attachments, jurat and mailing certificate omitted in printing]

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title omitted in printing]

PLAINTIFF'S ANSWERS TO INTERROGATORIES

COUNTY OF SALT LAKE } ss
STATE OF UTAH }

Thelma B. Wasescha, being first duly sworn, deposes and says that she was formerly known as Thelma B. Stanton; that she is the plaintiff in the above entitled action; and that the following answers to interrogatories served upon her by defendant on May 25, 1973, are true and correct:

Interrogatory No. 1: Please state whether or not Sherri Lyn Stanton, the daughter of the parties hereto, has lived continuously with the plaintiff since the time she turned 18 years of age, thus obtaining her majority.

Answer. No, but she did live continuously with plaintiff except for brief periods.

Interrogatory No. 2: If the answer to the next preceding Interrogatory is in the negative, please state with particularity the amount of time since her turning 18 years old that she has not lived with plaintiff.

Answer. During a four month period she shared an apartment away from home. Otherwise she has resided in plaintiff's home except for brief periods during which she stayed with friends.

Interrogatory No. 3: Please state with particularity the places, showing the periods of time, in which the parties daughter, Sherri Lyn Stanton, has resided in other than the home of plaintiff.

Answer. She shared an apartment at Sixth Avenue and "M" Streets, Salt Lake City, Utah, during the months of February, March, April, and May, 1972. In addition she has been away from the home of the plaintiff for brief vacations with friends.

Interrogatory No. 4: Please state whether Sherri Lyn Stanton has been employed since the time she turned 18 years of age.

Answer. She has been employed on a few occasions for short periods. From May 24 1971, to July 30, 1971, she worked part-time as a pantry waitress, three hours daily during the lunch period, for $1.15 per hour,

and earned a total of $220.53. She worked as a waitress at Cory Anderson's Pies, 369 South Fourth East, Salt Lake City, Utah, from March 2, 1972, to May 28, 1972, during which period she earned $513.64. She was employed as a clerk at the Paris Company, Salt Lake City, Utah, during the Christmas rush period from November 15, 1972, to December 31, 1972, at a rate of $1.60 per hour, earning a total of $223.71. She worked for defendant at True-Fit Seat Cover Center for about two and one half weeks at $1.60 per hour. She is not presently employable.

Interrogatory No. 5: If the answer to the next preceding Interrogatory is in the affirmative, please state by whom she was employed and if by more than one employer state the names of her employers, periods of time for which she was employed for each individual employer, the nature of her employment and her rate of pay.

Answer. See answer to Interrogatory No. 4.

Interrogatory No. 6: Please state whether or not Sherri Lyn Stanton has resided outside the State of Utah since the time she turned 18 years of age.

Answer. No, but she visited a friend in Vermont for a short time.

Interrogatory No. 7: If the answer to the next preceding Interrogatory is in the affirmative, please state the length of time and the places where she resided during the time she resided outside the State of Utah.

Answer. Not applicable.

Interrogatory No. 8: Please state whether or not Sherri Lyn Stanton has been employed outside the State of Utah.

Answer. She has not.

Interrogatory No. 9: If the answer to the next preceding Interrogatory is in the affirmative, please state the name and address of her employer, nature of her employment and her rate of pay with amount of income received.

Answer. Not applicable.

Interrogatory No 10: Please state whether Sherri Lyn Stanton was residing with plaintiff at the time she broke her ankle.

Answer. At the time Sherri Lyn broke her ankle she had been staying with a friend for about two weeks.

Interrogatory No. 11: If the answer to the next preceding Interrogatory is in the negative, please state where Sherri Lyn Stanton was residing at the time she broke her ankle.

Answer. The friend lived at 72 "T" Street, Salt Lake City, Utah.

Interrogatory No. 12: Please state in relation to the time Sherri Lyn Stanton broke her ankle that she began residing with plaintiff.

Answer. Sherri Lyn was brought from the hospital to the plaintiff's residence and has been living there ever since.

Interrogatory No. 13: At any time that the parties daughter Sherri Lyn Stanton did not reside

at the home of plaintiff, please state whether or not plaintiff contributed to her daughter's support during that period of time.

Answer. Only during the period in which Sherri Lyn was sharing an apartment and working at Cory Anderson's Pies, approximately February to May, 1972, did I not contribute to her support.

Interrogatory No. 14: If the answer to the next preceding Interrogatory is in the affirmative, please state at what intervals plaintiff did contribute to Sherri Lyn Stanton's support and the nature and amount of said support.

Answer. Not applicable.

Interrogatory No. 15: Please state whether or not Rick Arland Stanton resides with the plaintiff at the present time.

Answer. Yes.

Interrogatory No. 16: If the answer to the next preceding Interrogatory is in the negative, please state the length of time it has been since the said Rick Arland Stanton has resided with plaintiff.

Answer. Rick Arland resided with the defendant during March, April and May, 1973.

Interrogatory No. 17: Please state whether or not Rick Arland Stanton is employed at the present time if that is known to plaintiff.

Answer. Yes.

Interrogatory No. 18: If the answer to the next preceding Interrogatory is in the affirmative, please

state the name of the employer of the said Rick Arland Stanton and the amount of income earned by the said minor child from the employer.

Answer. He is employed by Perma-Pak, 440 East 2430 South, Salt Lake City, Utah, and earns approximately $..... per week.

Interrogatory No. 19: Please state whether or not Rick Arland Stanton has been employed since February of 1973 and whether or not he has had any other employers other than the one in the next preceding paragraph.

Answer. Yes. He had been working for his father, the defendant, at True-Fit Seat Cover Center, 601 South State, Salt Lake City, Utah, but was discharged summarily when the deefndant was served with plaintiff's Motion for Judgment in this case on about May 23, 1973. On that same day Rick Arland obtained his employment with Perma-Pak.

Interrogatory No. 20: If the said Rick Arland Stanton is not residing with plaintiff, please state the circumstances under which he left the residence of plaintiff and moved to the place where he is now residing.

Answer. He is now residing with the plaintiff. He resided with defendant for a short period because his mother and his younger sister both proved allergic to his Saint Bernard dog, and the dog could not be kept in the home.

Interrogatory No. 21: Please state whether or not the defendant was current on his child support obligation to plaintiff for the said Rick Arland Stanton

as long as the said Rick Arland Stanton resided with plaintiff.

Answer. Yes.

Dated this 15th day of June, 1973.

/s/ Thelma B. Wasescha

[Jurat and mailing certificate omitted in printing]

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title omitted in printing]

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The plaintiff's motion for judgment in her favor and against defendant in the sum of $3,000, plus costs and reasonable attorney's fees and for an order that defendant shall indemnify plaintiff against and hold her harmless from any liability on account of medical, surgical, hospital and pharmaceutical bills arising out of an accidental injury suffered by the parties daughter, Sherri Lyn, came on regularly for hearing before the Honorable James S. Sawaya, one of the judges of the above entitled court, on May 13, 1973, plaintiff appearing in person and by and through her attorney Bryce E. Roe of the firm of Roe and Fowler, and defendant appearing in person and by and through his attorney, D. Gary Christian of the firm of Kipp and Christian, and the court having reviewed plaintiff's motion and affidavit and having reviewed defendant's

affidavit, and having heard the statements and arguments of counsel, and being fully advised in the premises, and good cause appearing therefore, now makes and enters its:

FINDINGS OF FACT

1. Plaintiff and defendant were formerly husband and wife, having been divorced from each other on November 29, 1960.

2. There were two children born as issue of said marriage, namely, Sherri Lyn, born February 12, 1953, and Rick Arland, born January 29, 1955.

3. Pursuant to the terms of the decree of divorce, defendant was ordered to pay plaintiff the sum of $100 per month for each child as child support on or before the first day of each month.

4. On February 12, 1971, Sherri Lyn, one of the children of the parties, attained her majority by virtue of reaching the age of 18 years, at which time defendant was current in his child support obligations to plaintiff.

5. On or about February 25, 1973, Sherri Lyn Stanton was involved in an accidental injury whereby she fractured her ankle, and there have been certain hospital, surgical, medical, and pharmaceutical bills incurred for the care of the same, and the plaintiff demands that defendant should indemnify and hold her harmless for the payment of said bills, and pay a reasonable attorney's fee for bringing of her motion.

6. Defendant has represented to the court that he intends to pay said hospital and medical bills in-

curred by Sherri Lyn Stanton as a result of said accidental injury.

7. The parties' other child, Rick Arland Stanton, resided with defendant during March, April, and May, 1973, and returned to reside with plaintiff on May 30, 1973. During said period defendant did not pay plaintiff any support money.

From the foregoing findings of fact the court now makes and enters its:

CONCLUSIONS OF LAW

1. On February 12, 1971, Sherri Lyn Stanton, one of the children of the parties, became 18 years of age, and under the provisions of 15-2-1 Utah Code Annotated 1953, thereby attained her majority. Defendant is not obligated to plaintiff for maintenance and support of Sherri Lyn Stanton since that date.

2. The defendant is not obligated to pay support money to the plaintiff for the support of Rick Arland Stanton during the three month period in which said Rick Arland Stanton was residing with defendant.

3. Because of the defendant's willingness to pay the medical, surgical, hospital, and pharmaceutical bills incurred by the parties' daughter Sherri Lyn Stanton, it is unnecessary to enter an order respecting same.

4. Plaintiff should not be entitled to recover from defendant any attorney's fees.

5. Plaintiff's motion should be denied.

It is hereby ORDERED that an order be entered accordingly.

Dated this 13th day of June, 1973.

BY THE COURT:

/s/ James S. Sawaya,
District Judge

DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

THELMA B. STANTON,
Plaintiff,

v.

JAMES LAWRENCE STANTON, JR.,
Defendant.

ORDER
Civil No. 125233

The plaintiff's Motion for Judgment in her favor and against defendant in the sum of $3,000 plus costs and reasonable attorney fees, and for an order that defendant shall indemnify plaintiff against and hold her harmless from any liability on account of medical, surgical, hospital and pharmaceutical bills arising out of an accidental injury suffered by the parties' daughter, Sherri Lyn, came on regularly for hearing before the Honorable James S. Sawaya, one of the judges of the above entitled court on May 31, 1973, plaintiff appearing in person and by and through her attorney Bryce E. Roe of the firm of Roe and Fowler, and defendant appearing in person and by and through his attorney D. Gary Christian of the firm of Kipp and Christian, and the court having reviewed plaintiff's Motion and Affi-

davit and having reviewed deendant's Affidavit and having heard the statements and arguments of counsel, and being fully advised in the premises, the court heretofore having made and entered its Findings of Fact and Conclusions of Law, now, therefore, upon the motion of D. Gary Christian,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff's Motion for Judgment against defendant for the sum of $3,000 and for costs and reasonable attorney's fees and for an order that defendant shall indemnify plaintiff against and hold her harmless from any liability on account of medical, surgical, hospital and pharmaceu ical bills arising out of an accidental injury suffered by the parties' daughter, Sherri Lyn, be and the same is hereby denied.

Dated this 13th day of June, 1973.

BY THE COURT:

/s/ James S. Sawaya,
District Judge

DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH

[Title omitted in printing]

NOTICE OF APPEAL

Notice is hereby given that Thelma B. Stanton, plaintiff above named, hereby appeals to the Supreme Court of the State of Utah from the amended Order

entered herein on June 13, 1973, denying plaintiff's motion for judgment, indemnity, and attorney's fees.

Dated this 22nd day of June, 1973.

/s/ Bryce E. Roe,
Attorney for Plaintiff-Appellant

[Certificate of mailing omitted in printing]

The decision and opinion of Supreme Court of the State of Utah, dated January 4, 1974, is printed in full on Appendix C, pages 5A through 11A, of the Jurisdictional Statement on file herein.

IN THE SUPREME COURT OF THE STATE OF UTAH

Regular October Term, 1973 January 4, 1974

THELMA B. STANTON,
Plaintiff and Appellant,

v.

JAMES LAWRENCE STANTON,
Defendant and Respondent.

REMITTITUR
No. 13362
Dist. No. 125233

This cause having been heretofore argued and submitted, and the Court being sufficiently advised in the premises, it is now ordered, adjudged and decreed that the judgment of the District Court herein be, upon the basis of the decree, and the record before us, the plaintiff is entitled to judgment for the $300 accrued support money for the son Rick, and to a continuance thereof

during his minority unless otherwise properly determined and ordered by the District Court; except as to this last item, the judgment is affirmed. The parties to bear their own costs.

Regular October Term, 1973 January 30, 1974

(UPON PETITION FOR REHEARING)

Upon consideration of the petition for rehearing heretofore filed herein, and the arguments of counsel thereupon had, it is ordered that the rehearing be, and the same is, denied.

Issued January 30, 1974.

DISTRICT COURT OF SALT LAKE COUNTY STATE OF UTAH

[Title omitted in printing]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

NOTICE IS HEREBY GIVEN that Thelma B. Wasescha, formerly known as Thelma B. Stanton, the appellant above named, hereby appeals to the Supreme Court of the United States from the final judgment of the Supreme Court of the State of Utah filed January 4, 1974, affirming an order of the District Court of Salt Lake County entered herein on June 13, 1973, insofar as it denied plaintiff judgment for accrued support money for the party's daughter, Sherri Lynn Stanton.

This appeal is taken pursuant to 28 U.S.C. §1257 (2).

DATED this 5th day of March, 1974.

Bryce E. Roe and
William G. Fowler

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Attorneys for Appellant